IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

WRIT PETITION NO : 10943 of 1994

Between:

Akaram Muthyam, S/o Bixamaiah, 34 years, Ravindranagar, Nalgonda, Nalgonda Distrit.

..... PETITIONER

AND

1. Primary Agriultural Coop. Society, Parvathigiri rep. By its Dy. Registrar of Coop.Societies, Nalgonda.
2. Cooperative Tribunal/District Munsif, Nalgonda.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ specially one in the nature of writ of Mandamus declaring the order of the Dy.Registrar of Cooperative Societies, Nalgonda passed in Rc.No.3216/83-D dt/15-10-1988 as confirmed by the Respondent no.2 in C.M.A.No.4/1990 dt.6-4-1994 as illegal, arbitrary, unconstitutional and pass such other or further orders as deemed fit and proper.

Counsel for the Petitioner:MR.D.GOVARDHANACHARY

Counsel for the Respondents : MR.K.RAJANNA FOR R-1

GP FOR COOPERATION FOR R-2

The Court made the following :

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

W.P.No.10943 of 1994

ORAL ORDER :

Aggrieved by an order passed by the Dy. Registrar of Cooperative Societies, Nalgonda in Rc.No.3216/83-D, dt. 15.10.1988 under section 60 of the A.P.Cooperative Societies Act, the petitioner carried the matter in appeal in CMA No.4 of 1990 before the District Munsif, Nalgonda, and by judgment dated 6.4.1994, the appeal was dismissed. Challenging the same, the present writ petition is filed.

Section 76 of the Cooperative Societies Act provides for an appeal against any decision or order passed under Section 60 of the Cooperative Societies Act. Section 76 underwent amendments from time to time. Prior to the amendments of 2001, there was an amendment to Section 76 under A.P.Act No.15 of 1991 which came into effect from 6.8.1991. Before the amendment under Act 15 of 1991, the concerned District Munsif was designated to be the Cooperative Tribunal.

Aggrieved by the orders passed under Section 60 of the Cooperative Societies Act on 15.10.1988 by the Deputy Registrary, Cooperative Societies, Nalgonda, the petitioner herein carried the same in appeal to the District Munsif, Nalgonda in the year 1990 i.e., prior to the amendment of Section 76 by Act 15 of 1991 and on the date of the presentation of the appeal, the District Munsif, Nalgonda was admittedly the competent authority to hear the petitioner's appeal. During the pendency of the appeal before the District Munsif, Nalgonda, Act 15 of 1991 came to be passed.

The only submission made by the learned counsel for the petitioner is that in view of the amendment to Section 76 of the Cooperative Societies Act, the District Munsif, Nalgonda, ceased to have the jurisdiction to deal with the appeal of the

petitioner and the appeal of the petitioner should have been transferred to the newly constituted Tribunal under the Amendment Act 15 of 1991. The question is no more *res integra* dealing with the identical issue in a case reported in **P.G.Tilak v. Dy. Registrar of Coop. Societies.** The **learned single Judge Justice B.Subhashan Reddy, as he then was,** held as follows :

> "9. In view of what is stated supra, the legal position which emerges is that the appeal is a substantive right and not a procedural one and that the appellate forum prescribed on the date of initiation of original action continues to be the same regardless of a later amendment changing the said appellate forum or even abrogating the same, unless the amending statute expressly states so or it is so manifest by necessary implication. Having scanned through the provisions of the amended Act contained under A.P.Act No.15/91, touching upon Section 75 of the principal Act of A.P. Co-operative Societies, 1964, amending the appellate forum, taking away two different forums such as District Munsif and Subordinate Court basing on the distinction of primary societies and large societies and constituting only one appellate forum irrespective of the nature of the societies with District Judge as Chairman with two other members, operates only prospectively for any original action initiated under the Act on or after 6.8.1991, but not before."

It is clear from the above extracted para of the judgment that an identical submission such as the one made here is rejected holding that a forum which has the jurisdiction to hear in appeal is the forum which has the jurisdiction on the date of the presentation of the appeal, the change of the forum to deal with the same class of appeals arising at a subsequent point of time would not take away the jurisdiction of the earlier forum to deal with the pending appeals. I, therefore, do not see any merits in the writ petition and the same is dismissed.

---

knk 08.07.2004

To

1. The Dy. Registrar of Coop.Societies, Primary Agriultural Coop. Society, Parvathigiri Nalgonda.

2. The Cooperative Tribunal/District Munsif, Nalgonda.

3. Two CCs to the G.P. for Cooperation, High Court of A.P., Hyderabad (OUT).

4. Two CD copies.

Form-NIC-OGS/WP{ }